

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 26, 2022

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APPLICATION OF

COLUMBIA GAS OF VIRGINIA, INC.

CASE NO. PUR-2021-00301

For approval of a proposal to establish an economic
development program to acquire utility rights-of-way
for qualified economic development sites
pursuant to § 56-235.12 of the Code of Virginia

ORDER FOR NOTICE AND HEARING

On January 4, 2022, Columbia Gas of Virginia, Inc. ("CVA" or "Company") filed with the State Corporation Commission ("Commission") an Application, pursuant to § 56-235.12 of the Code of Virginia ("Code"), in which the Company proposes to establish an economic development program ("ROW Program"). Through the ROW Program, CVA would seek to acquire utility rights-of-way ("ROW") for two economic development sites, the Shannon Hill Regional Business Park ("Shannon Hill") and the Mid-Atlantic Advanced Manufacturing Center ("MAMaC").¹

Shannon Hill is a 700-acre tract located off Shannon Hill Road at the Interstate 64 interchange in Louisa County, Virginia, approximately 25 miles from Charlottesville, Virginia and 40 miles from Richmond, Virginia.² Louisa County has prepared a master plan for this site to accommodate industries such as logistics and distribution, data centers, advanced manufacturing, light manufacturing, and accessory offices.³ According to the Application, if

¹ Application at 1.

² Application Attachment 1 at 3.

³ *Id.*

Shannon Hill were successfully developed, Louisa County estimates a potential capital investment at this site of \$2.5 billion and the creation of 3,500 new jobs for the region.⁴

MAMaC is a 1,600-acre site located in Greensville County, Virginia, centrally located with Interstate 95 frontage, access to a CSX main line, and a direct route to Virginia ports.⁵ MAMaC is located approximately 60 minutes south of Richmond, Virginia and 90 minutes west of Norfolk, Virginia.⁶ Greensville County, Mecklenburg County, and the City of Emporia all support MAMaC through a revenue-sharing agreement.⁷ According to the Application, if MAMaC were successfully developed, Greensville County estimates that MAMaC would bring in capital investment of \$1.25 to \$1.75 billion to the area and create upwards of 6,350 jobs.⁸

Pursuant to Code § 56-235.12 C, a utility proposing an economic development program "shall include an analysis of how acquiring utility rights-of-way will enhance the Commonwealth's infrastructure and promote the Commonwealth's competitive business environment by improving the readiness of a qualified economic development site." CVA represents that Shannon Hill and MAMaC are "qualified economic development site[s]" within the meaning of Code § 56-235.12 A and that acquiring the necessary ROW for these sites will improve their readiness for development, thereby fulfilling the requirements of Code § 56-235.12 C.⁹ Specifically, CVA asserts that the ROW Program would eliminate "a critical

⁴ *Id.* at 3, 5.

⁵ *Id.* at 4.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 4, 5.

⁹ *See id.*; Code §§ 56-235.12 A and C.

element that can delay delivering service to the sites in a 12- to 18-month period," that of acquiring utility ROW.¹⁰ CVA notes that it may seek to amend the ROW Program in the future to add other qualified economic development sites as they materialize.¹¹

CVA estimates a capital investment of approximately \$1 million associated with Shannon Hill and approximately \$180,000 associated with MAMaC.¹² The Company proposes to defer the costs incurred in implementing the ROW Program until new base rates and charges for CVA become effective that incorporate the ROW Program.¹³ These costs would include deferred costs, including depreciation, taxes, a return on CVA's investment, and other land-related costs associated with costs incurred to acquire utility ROW, and associated carrying costs.¹⁴

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; CVA should provide public notice of its Application; a hearing should be scheduled for the purpose of receiving testimony and evidence on the Application; interested persons should have an opportunity to file comments on the Application or to participate as respondents in this proceeding; and the Commission's Staff should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon. Further, we find that a Hearing Examiner should be assigned to conduct all further proceedings in this matter on behalf of the Commission, including filing a final report containing the Hearing Examiner's findings and recommendations.

¹⁰ Application Attachment 1 at 2.

¹¹ *Id.*

¹² *Id.* at 7.

¹³ *Id.* at 5.

¹⁴ *Id.* at 5-6.

The Commission takes judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.¹⁵ Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of testimony and pleadings, unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUR-2021-00301.

(2) All pleadings in this matter should be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").¹⁶ Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or

¹⁵ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, 2020 S.C.C. Ann. Rept. 76, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* 2020 S.C.C. Ann. Rept. 77, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, 2020 S.C.C. Ann. Rept. 77, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), *extended by* 2020 S.C.C. Ann. Rept. 78, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, 2020 S.C.C. Ann. Rept. 79, Order Requiring Electronic Service (Apr. 1, 2020).

¹⁶ 5 VAC 5-20-10 *et seq.*

submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.¹⁷

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) As provided by § 12.1-31 of the Code and Rule 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Rules of Practice, a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission.

(5) The Commission hereby schedules a telephonic hearing for the receipt of testimony from public witnesses on the Company's Application, as follows:

- (a) A hearing for the receipt of testimony from public witnesses on the Company's Application shall be convened telephonically at 10 a.m. on March 29, 2022, with no public witness present in the Commission's courtroom.¹⁸
- (b) To promote fairness for all public witnesses, each witness will be allotted five minutes to provide testimony.
- (c) On or before March 25, 2022, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission

¹⁷ As noted in the Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may be subject to delayed processing due to the COVID-19 public health issues.

¹⁸ The Commission will convene counsel of record in this proceeding to attend the public witness hearing virtually.

in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141.

(d) Beginning at 10 a.m. on March 29, 2022, the Commission will telephone sequentially each person who has signed up to testify as provided above.

(e) This public witness hearing will be webcast at scc.virginia.gov/pages/Webcasting.

(6) A public evidentiary hearing on the Application shall be convened at 10 a.m. on March 30, 2022, either in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, or by electronic means, to receive testimony and evidence offered by the Company, respondents, and the Staff on the Application. Further details on this hearing will be provided by subsequent Commission Order or Hearing Examiner's Ruling.

(7) An electronic copy of the public version of the Company's Application may be obtained by submitting a written request to counsel for the Company, T. Borden Ellis, Assistant General Counsel, NiSource Corporate Services Company, 1809 Coyote Drive, Chester, Virginia 23836, tbellis@nsource.com. Interested persons also may download unofficial copies of the public version of the Application and other documents filed in this case from the Commission's website: scc.virginia.gov/pages/Case-Information.

(8) On or before February 11, 2022, the Company shall cause the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Company's service territory in Virginia:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
COLUMBIA GAS OF VIRGINIA, INC., FOR APPROVAL OF A
PROPOSAL TO ESTABLISH AN ECONOMIC
DEVELOPMENT PROGRAM TO ACQUIRE UTILITY
RIGHTS-OF-WAY FOR QUALIFIED ECONOMIC
DEVELOPMENT SITES PURSUANT TO
§ 56-235.12 OF THE CODE OF VIRGINIA
CASE NO. PUR-2021-00301

On January 4, 2022, Columbia Gas of Virginia, Inc. ("CVA" or "Company") filed with the State Corporation Commission ("Commission") an Application, pursuant to § 56-235.12 of the Code of Virginia ("Code"), in which the Company proposes to establish an economic development program ("ROW Program"). Through the ROW Program, CVA would seek to acquire utility rights-of-way ("ROW") for two economic development sites, the Shannon Hill Regional Business Park ("Shannon Hill") and the Mid-Atlantic Advanced Manufacturing Center ("MAMaC").

Shannon Hill is a 700-acre tract located off Shannon Hill Road at the Interstate 64 interchange in Louisa County, Virginia, approximately 25 miles from Charlottesville, Virginia and 40 miles from Richmond, Virginia. Louisa County has prepared a master plan for this site to accommodate industries such as logistics and distribution, data centers, advanced manufacturing, light manufacturing, and accessory offices. According to the Application, if Shannon Hill were successfully developed, Louisa County estimates a potential capital investment at this site of \$2.5 billion and the creation of 3,500 new jobs for the region.

MAMaC is a 1,600-acre site located in Greensville County, Virginia, centrally located with Interstate 95 frontage, access to a CSX main line, and a direct route to Virginia ports. MAMaC is located approximately 60 minutes south of Richmond, Virginia and 90 minutes west of Norfolk, Virginia. Greensville County, Mecklenburg County, and the City of Emporia all support MAMaC through a revenue-sharing agreement. According to the Application, if MAMaC were successfully developed, Greensville County estimates that MAMaC would bring in capital investment of \$1.25 to \$1.75 billion to the area and create upwards of 6,350 jobs.

Pursuant to Code § 56-235.12 C, a utility proposing an economic development program "shall include an analysis of how acquiring utility rights-of-way will enhance the Commonwealth's

infrastructure and promote the Commonwealth's competitive business environment by improving the readiness of a qualified economic development site." CVA represents that Shannon Hill and MAMaC are "qualified economic development site[s]" within the meaning of Code § 56-235.12 A and that acquiring the necessary ROW for these sites will improve their readiness for development, thereby fulfilling the requirements of Code § 56-235.12 C. Specifically, CVA asserts that the ROW Program would eliminate "a critical element that can delay delivering service to the sites in a 12- to 18-month period," that of acquiring utility ROW. CVA notes that it may seek to amend the ROW Program in the future to add other qualified economic development sites as they materialize.

CVA estimates a capital investment of approximately \$1 million associated with Shannon Hill and approximately \$180,000 associated with MAMaC. The Company proposes to defer the costs incurred in implementing the ROW Program until new base rates and charges for CVA become effective that incorporate the ROW Program. These costs would include deferred costs, including depreciation, taxes, a return on CVA's investment, and other land-related costs associated with costs incurred to acquire utility ROW, and associated carrying costs.

Interested persons are encouraged to review CVA's Application and supporting documents in full for details about these and other proposals. TAKE NOTICE that the Commission may make findings and order action in a manner differing from that proposed in the Company's Application.

The Commission entered an Order for Notice and Hearing that, among other things, scheduled public hearings on CVA's Application. On March 29, 2022, at 10 a.m., a Hearing Examiner appointed by the Commission will hold a telephonic hearing for the purpose of receiving the testimony of public witnesses, with no public witness present in the Commission's courtroom. On or before March 25, 2022, any person desiring to offer testimony as a public witness shall provide to the Commission (a) your name, and (b) the telephone number that you wish the Commission to call during the hearing to receive your testimony. This information may be provided to the Commission in three ways: (i) by filling out a form on the Commission's website at scc.virginia.gov/pages/Webcasting; (ii) by completing and emailing the PDF version of this form to SCCInfo@scc.virginia.gov; or (iii) by calling (804) 371-9141.

This public witness hearing will be webcast at scc.virginia.gov/pages/Webcasting.

On March 30, 2022, at 10 a.m., either in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, or by electronic means, a Hearing Examiner appointed by the Commission will convene a hearing to receive testimony and evidence offered by the Company, any respondents, and the Commission's Staff on the Company's Application. Further details on this hearing will be provided by subsequent Commission Order or Hearing Examiner's Ruling.

The Commission has taken judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"). Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Rules of Practice, the Commission has directed that service on parties and the Commission's Staff in this matter shall be accomplished by electronic means. Please refer to the Commission's Order for Notice and Hearing for further instructions concerning Confidential or Extraordinarily Sensitive Information.

An electronic copy of the public version of the Company's Application may be obtained by submitting a written request to counsel for the Company, T. Borden Ellis, Assistant General Counsel, NiSource Corporate Services Company, 1809 Coyote Drive, Chester, Virginia 23836, tbellis@nsource.com.

On or before March 9, 2022, any interested person may submit comments on the Application by following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically

may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2021-00301.

On or before March 4, 2022, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed above. Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2021-00301.

On or before March 4, 2022, each respondent may file with the Clerk of the Commission, at scc.virginia.gov/clk/efiling, any testimony and exhibits by which the respondent expects to establish its case. Any respondent unable, as a practical matter, to file testimony and exhibits electronically may file such by U.S. mail to the Clerk of the Commission at the address listed above. Each witness's testimony shall include a summary not to exceed one page. All testimony and exhibits shall be served on the Commission's Staff, the Company, and all other respondents simultaneous with its filing. In all filings, respondents shall comply with the Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2021-00301.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order for Notice and Hearing, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

The public version of the Company's Application and other documents filed in this case, the Commission's Rules of Practice, and the Commission's Order for Notice and Hearing may be viewed at: scc.virginia.gov/pages/Case-Information.

COLUMBIA GAS OF VIRGINIA, INC.

(9) On or before February 11, 2022, the Company shall serve a copy of this Order for Notice and Hearing on the following officials, to the extent the position exists, in each county, city, and town in which the Company provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.

(10) On or before February 18, 2022, the Company shall file proof of the notice and service required by Ordering Paragraphs (8) and (9), including the name, title, address, and electronic mail address (if applicable) of each official served, with the Clerk of the Commission, at scc.virginia.gov/clk/efiling.

(11) On or before March 9, 2022, any interested person may submit written comments on the Application by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. All comments shall refer to Case No. PUR-2021-00301.

(12) On or before March 4, 2022, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation at

scc.virginia.gov/clk/efiling. Those unable, as a practical matter, to file a notice of participation electronically may file such notice by U.S. mail to the Clerk of the Commission at the address listed above. Such notice of participation shall include the email addresses of such parties or their counsel, if available. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Company. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2021-00301.

(13) Within three (3) business days of receipt of a notice of participation as a respondent, the Company shall serve a copy of the public version of its Application on the respondent.

(14) On or before March 4, 2022, each respondent may file with the Clerk of the Commission, at scc.virginia.gov/clk/efiling, any testimony and exhibits by which the respondent expects to establish its case. Any respondent unable, as a practical matter, to file testimony and exhibits electronically may file such by U.S. mail to the Clerk of the Commission at the address listed above. Each witness's testimony shall include a summary not to exceed one page. All testimony and exhibits shall be served on the Staff, the Company, and all other respondents simultaneous with its filing. In all filings, respondents shall comply with the Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2021-00301.

(15) On or before March 4, 2022, the Staff shall investigate the Application and file with the Clerk of the Commission its testimony and exhibits concerning the Application, and each Staff witness's testimony shall include a summary not to exceed one page. A copy thereof shall be served on counsel to the Company and all respondents.

(16) On or before March 18, 2022, the Company shall file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page. The Company shall serve a copy of its rebuttal testimony and exhibits on the Staff and all respondents.

(17) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified herein, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Rules of Practice.

(18) Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within seven (4) business days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the

Staff.¹⁹ Except as modified herein, discovery shall be in accordance with Part IV of the Rules of Practice, 5 VAC 5-20-240 *et seq.*

(19) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

¹⁹ The assigned Staff attorney is identified on the Commission's website, scc.virginia.gov/pages/Case-Information, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2021-00301, in the appropriate box.